

Testimony of Representative Warren Davidson Before the Committee on House Administration Concerning House Staffer TS/SCI Clearances

March 8, 2023

Good morning, Chairman Steil and Ranking Member Morelle. Thank you for allowing me to testify before the Committee on House Administration concerning the House's ability to permit one Top Secret / Sensitive Compartmented Information (TS/SCI) clearance per House personal office to support access to information.

Security clearances govern access to classified information. While Members of Congress are entitled to access classified information by virtue of our constitutional offices, our staff do not have this privilege. Often, our staffers do not hold sufficient clearances to access information required for Members of Congress to legislate or conduct effective oversight.

Members cannot be expected to conduct oversight singlehandedly, which is why our staff is so essential. And those staff should be empowered to help Members as necessary, including being granted high clearances as needed. Specifically, I ask that the House Administration Committee consider instructing The House Security Division to set up a process to allow one staffer from each personal office to have a TS/SCI clearance. This change would mirror the Senate's recent policy change and expand Congress' oversight capabilities.

Access to classified information is controlled by several parallel systems, two of which are relevant here. The first is the division of clearances into confidential, secret, and top secret. The second imposes additional controls on eligibility and access to information, known as the Sensitive Compartmented Information (SCI) program. Access to SCI information requires completion of a Single Scope Background Investigation and eligibility adjudication by the Department of Defense Consolidated Adjudications Facility or by the Intelligence Community. Classified information that requires both a top-secret clearance and SCI eligibility is often abbreviated as "TS/SCI" to denote the clearance level and additional access requirements.¹

Currently, Members of the House of Representatives are afforded up to two staffers with a TS clearance, but they are not eligible to obtain a TS/SCI. There have been several notable pushes in the House to address this imbalance — even Members of the House Intelligence Committee are not currently afforded personal office staff with TS/SCI clearances, and they have unsuccessfully advocated for their aides to be eligible to obtain them.²

The Legislative branch oversees the entire government, but only a few staffers have these high-level clearances. Meanwhile, there are currently hundreds of thousands of Executive branch staff with TS/SCI clearances. The number of committee offices altogether is probably on the order of 1,000. It is past time for Congress to address this disparity.

¹ For additional background information regarding the security clearance process, see "Security Clearance Process: Answers to Frequently Asked Questions" Congressional Research Service, October 7, 2016 <https://sgp.fas.org/crs/secretcy/R43216.pdf>

² See Ratnam, Gopal "Staff security clearances may vex House Intelligence members" Roll Call, October 2, 2019 <https://rollcall.com/2019/10/02/staff-security-clearances-may-vex-house-intelligence-members/>

The possession of a TS/SCI clearance significantly empowers staff to conduct oversight of the Executive branch. In November 2021, the Senate understood this need and changed its chamber rules to designate one staffer as eligible to apply for TS/SCI, giving personal office staffers the ability to review matters deemed classified by the Executive branch.³

House appropriators have taken action on this issue, but more needs to be done. The FY 2020 Legislative Branch Appropriations bill requested a study and report on processing times for security clearances for House employees and whether such clearances are being finalized and adjudicated consistently with executive branch timelines.⁴ The FY 2021 Legislative Branch Appropriations bill asked for further clarification of this information, directing the Sergeant at Arms to include the number of clearances disaggregated by security level as well as clearances pending. (H. Rpt. 116-447 p. 10).⁵

Accordingly, I urge the committee to take the following steps:

1. Request House leadership direct the House Security Division (HSD) of the Sergeant at Arms to amend the House of Representatives Security Policy Manual to establish a procedure through which every House Member may submit a maximum of one Top Secret-cleared employee per House personal office through HSD for adjudication of eligibility to access Sensitive Compartmented Information (SCI) by the Department of Defense Central Adjudication Facility. This shall not alter the established precedence of a "need-to-know" determination made by the entity in possession of the classified information or material sought.
2. Request House leadership require the HSD to ensure any staffer who receives a TS/SCI clearance is provided adequate training as to the responsibilities of that clearance, including counterintelligence training, and a further report from HSD on what additional programming and resources should be implemented and costs incurred to provide all congressional staff appropriate counterintelligence training.

Access to TS/SCI information is important not just to aid Congress in addressing traditional national security concerns, such as military and intelligence matters, but also for election security and cyber threats. The House of Representatives should also empower every Member to designate one personal office staffer who shall be provided clearance at the TS/SCI level, provided that staffer passes the background check. Receiving a clearance does not put a staffer "in access" to information, since that requires an additional determination of a need-to-know situation. However, it removes an important barrier so that staff can provide an appropriate level of responsive, unbiased, expert advice to each of us.

³ See Ward, Alexander and Forgey Quint, "Some Americans wanting out of Afghanistan not reached by State, 4 groups say" Politico National Security Daily, November 16, 2021. <https://www.politico.com/newsletters/national-security-daily/2021/11/16/some-americans-wanting-out-of-afghanistan-not-reached-by-state-4-groups-say-495122>

⁴ Legislative Branch Appropriations, 2020 Committee Report (H. Rept. 116-64, p. 13), <https://www.congress.gov/116/crpt/hrpt64/CRPT-116hrpt64.pdf>

⁵ Legislative Branch Appropriations, 2021 Committee Report (H. Rept. 116-447, p. 10), <https://www.congress.gov/116/crpt/hrpt447/CRPT-116hrpt447.pdf>

I have also submitted to the record an amendment to the House Rules that would allow one staffer from each personal office to have a TS/SCI clearance.

I greatly appreciate your time and consideration of our request and look forward to answering any questions you may have.